

1 AN ACT

2 relating to health care data collected by the Department of State  
3 Health Services and access to certain confidential patient  
4 information within the department, including data and confidential  
5 patient information concerning bleeding and clotting disorders,  
6 and other issues related to bleeding and clotting disorders.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Subtitle E, Title 2, Health and Safety Code, is  
9 amended by adding Chapter 103A to read as follows:

10 CHAPTER 103A. TEXAS BLEEDING DISORDERS ADVISORY COUNCIL

11 Sec. 103A.001. DEFINITIONS. In this chapter:

12 (1) "Commissioner" means the commissioner of state  
13 health services.

14 (2) "Council" means the Texas Bleeding Disorders  
15 Advisory Council.

16 (3) "Department" means the Department of State Health  
17 Services.

18 (4) "Hemophilia" has the meaning assigned by Section  
19 41.001.

20 Sec. 103A.002. COMPOSITION OF COUNCIL. (a) The council is  
21 composed of:

22 (1) the commissioner and the commissioner of  
23 insurance, or their designees, serving as nonvoting members; and

24 (2) 10 voting members jointly appointed by the

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1 commissioner and the commissioner of insurance as follows:

2 (A) one member who is a physician licensed to  
3 practice medicine in this state under Subtitle B, Title 3,  
4 Occupations Code, who at the time of appointment treats individuals  
5 with hemophilia or other bleeding or clotting disorders;

6 (B) one member who is a nurse licensed under  
7 Chapter 301, Occupations Code, who at the time of appointment  
8 treats individuals with hemophilia or other bleeding or clotting  
9 disorders;

10 (C) one member who is a social worker licensed  
11 under Chapter 505, Occupations Code, who at the time of appointment  
12 treats individuals with hemophilia or other bleeding or clotting  
13 disorders;

14 (D) one member who is a representative of a  
15 hemophilia treatment center in this state that is federally funded;

16 (E) one member who is a representative of a  
17 health insurer or other health benefit plan issuer that holds a  
18 certificate of authority issued by the Texas Department of  
19 Insurance;

20 (F) one member who is a representative of a  
21 volunteer or nonprofit health organization that serves residents of  
22 this state who have hemophilia or another bleeding or clotting  
23 disorder;

24 (G) one member who has hemophilia or is a  
25 caregiver of a person with hemophilia;

26 (H) one member who has a bleeding disorder other  
27 than hemophilia or is a caregiver of a person with a bleeding

disorder other than hemophilia;

(I) one member who has a clotting disorder or is a caregiver of a person with a clotting disorder; and

(J) one member who is a pharmacist licensed under Subtitle J, Title 3, Occupations Code, with hemophilia therapy experience, who at the time of appointment represents a pharmacy provider that is not a specialty pharmacy provider participating in the Drug Pricing Program under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(b) In addition to council members appointed under Subsection (a), the commissioner and the commissioner of insurance may jointly appoint up to five nonvoting members, including:

(1) persons with hemophilia or other bleeding or clotting disorders or caregivers of persons with hemophilia or other bleeding or clotting disorders; and

(2) persons experienced in the diagnosis, treatment, care, and support of persons with hemophilia or other bleeding or clotting disorders.

Sec. 103A.003. VACANCY. If a vacancy occurs on the council, the commissioner and the commissioner of insurance shall jointly appoint a person to serve for the remainder of the unexpired term.

Sec. 103A.004. PRESIDING OFFICER. Council members shall elect from among the voting council members a presiding officer. The presiding officer retains all voting rights.

Sec. 103A.005. COMPENSATION AND REIMBURSEMENT. A council member may not:

(1) receive compensation for service on the council;

1 and

2           (2) be reimbursed for actual and necessary expenses  
3 incurred while performing council business except to the extent  
4 that money available under Section 103A.009 is designated for that  
5 purpose.

6           Sec. 103A.006. MEETINGS. The council shall meet at least  
7 quarterly and at the call of the commissioner or presiding officer.

8           Sec. 103A.007. DUTIES OF COUNCIL. The council using  
9 existing resources may conduct studies and advise the department,  
10 the Health and Human Services Commission, and the Texas Department  
11 of Insurance on:

12           (1) public use data, outcome data, and other  
13 information submitted to or collected by the department under  
14 Chapter 108 or other law related to hemophilia or other bleeding or  
15 clotting disorders and the department's disclosure and  
16 dissemination of that information within and outside the  
17 department; and

18           (2) other issues that affect the health and wellness  
19 of persons living with hemophilia or other bleeding or clotting  
20 disorders.

21           Sec. 103A.008. ANNUAL REPORTS BY COUNCIL AND COMMISSIONER.

22 (a) Not later than December 1 of each even-numbered year, the  
23 council using existing resources shall submit a report of its  
24 findings and recommendations to the governor, the lieutenant  
25 governor, and the speaker of the house of representatives. The  
26 council's report must be made public and is subject to public review  
27 and comment before adoption by the council.

(b) Not later than six months after the date the council's annual report is issued, the commissioner shall report on efforts to implement the recommendations in the report. The commissioner's annual report must:

- (1) be made available to the public; and
- (2) include any related state or national activities in which the council participates.

Sec. 103A.009. GIFTS, GRANTS, AND DONATIONS. The commissioner may accept for the council gifts, grants, and donations to fulfill the council's purposes and duties under this chapter. The department is not required to perform any fund-raising activities or to solicit donations for the council.

Sec. 103A.010. CERTAIN FUNDING PROHIBITED. The council may not accept any funds that are appropriated by the legislature for the state fiscal biennium beginning September 1, 2011. This section expires September 1, 2013.

Sec. 103A.011. EXPIRATION. This chapter expires and the council is abolished September 1, 2015.

SECTION 2. Section 108.002, Health and Safety Code, is amended by amending Subdivision (7) and adding Subdivision (8-a) to read as follows:

(7) "Department" means the ~~[Texas]~~ Department of State Health Services.

(8-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

SECTION 3. Chapter 108, Health and Safety Code, is amended by adding Section 108.0026 to read as follows:

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Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL.

(a) The powers and duties of the Texas Health Care Information Council under this chapter were transferred to the Department of State Health Services in accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

(b) In this chapter or other law, a reference to the Texas Health Care Information Council means the Department of State Health Services.

SECTION 4. Subsection (h), Section 108.009, Health and Safety Code, is amended to read as follows:

(h) The department [~~council~~] shall coordinate data collection with the data submission formats used by hospitals and other providers. The department [~~council~~] shall accept data in the format developed by the American National Standards Institute [~~National Uniform Billing Committee (Uniform Hospital Billing Form UB-92) and HCFA-1500~~] or its successor [~~their successors~~] or other nationally [~~universally~~] accepted standardized forms that hospitals and other providers use for other complementary purposes.

SECTION 5. Section 108.013, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (d), (g), (i), and (j) and adding Subsections (k), (l), (m), and (n) to read as follows:

(a) The data received by the department under this chapter [~~council~~] shall be used by the department [~~council~~] for the benefit of the public. Subject to specific limitations established by this chapter and executive commissioner [~~council~~] rule, the department [~~council~~] shall make determinations on requests for information in

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1 favor of access.

2 (b) The executive commissioner [~~council~~] by rule shall  
3 designate the characters to be used as uniform patient identifiers.  
4 The basis for assignment of the characters and the manner in which  
5 the characters are assigned are confidential.

6 (c) Unless specifically authorized by this chapter, the  
7 department [~~council~~] may not release and a person or entity may not  
8 gain access to any data obtained under this chapter:

9 (1) that could reasonably be expected to reveal the  
10 identity of a patient;

11 (2) that could reasonably be expected to reveal the  
12 identity of a physician;

13 (3) disclosing provider discounts or differentials  
14 between payments and billed charges;

15 (4) relating to actual payments to an identified  
16 provider made by a payer; or

17 (5) submitted to the department [~~council~~] in a uniform  
18 submission format that is not included in the public use data set  
19 established under Sections 108.006(f) and (g), except in accordance  
20 with Section 108.0135.

21 (d) Except as provided by this section, all [~~All~~] data  
22 collected and used by the department [~~and the council~~] under this  
23 chapter is subject to the confidentiality provisions and criminal  
24 penalties of:

25 (1) Section 311.037;

26 (2) Section 81.103; and

27 (3) Section 159.002, Occupations Code.

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(g) Except as provided by Subsection (i), the department  
~~[The council]~~ may not release data elements in a manner that will  
 reveal the identity of:

(1) a patient; or

(2) [~~The council may not release data elements in a~~  
~~manner that will reveal the identity of]~~ a physician.

(i) Notwithstanding any other law, the ~~[council and the]~~  
 department may ~~[not]~~ provide information made confidential by this  
 section to the Health and Human Services Commission or a health and  
human services agency as defined by Section 531.001(4), Government  
Code, provided that the receiving agency has appropriate controls  
in place to ensure the confidentiality of any personal information  
contained in the information shared by the department under this  
subsection is subject to the limits on further disclosure described  
by Subsection (d) [~~any other agency of this state~~].

(j) The executive commissioner ~~[council]~~ shall by rule~~[-~~  
~~with the assistance of the advisory committee under Section~~  
~~108.003(g)(5),]~~ develop and implement a mechanism to comply with  
 Subsections (c)(1) and (2).

(k) The department may disclose data collected under this  
chapter that is not included in public use data to any program  
within the department if the disclosure is reviewed and approved by  
the institutional review board under Section 108.0135.

(l) Confidential data collected under this chapter that is  
disclosed to a program within the department remains subject to the  
confidentiality provisions of this chapter and other applicable  
law. The department shall identify the confidential data that is



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1 disclosed to a program under Subsection (k). The program shall  
2 maintain the confidentiality of the disclosed confidential data.

3 (m) The following provisions do not apply to the disclosure  
4 of data to a department program:

- 5 (1) Section 81.103;  
6 (2) Sections 108.010(g) and (h);  
7 (3) Sections 108.011(e) and (f);  
8 (4) Section 311.037; and  
9 (5) Section 159.002, Occupations Code.

10 (n) Nothing in this section authorizes the disclosure of  
11 physician identifying data.

12 SECTION 6. Section 108.0135, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD  
15 [~~PANEL~~]. (a) The department [~~council~~] shall establish an  
16 institutional [~~a scientific~~] review board [~~panel~~] to review and  
17 approve requests for access to data not contained in [~~information~~  
18 ~~other than~~] public use data. The members of the institutional  
19 review board must [~~panel shall~~] have experience and expertise in  
20 ethics, patient confidentiality, and health care data.

21 (b) To assist the institutional review board [~~panel~~] in  
22 determining whether to approve a request for information, the  
23 executive commissioner [~~council~~] shall adopt rules similar to the  
24 federal Centers for Medicare and Medicaid Services' [~~Health Care~~  
25 ~~Financing Administration's~~] guidelines on releasing data.

26 (c) A request for information other than public use data  
27 must be made on the form prescribed [~~created~~] by the department

1 ~~[council]~~.

2       (d) Any approval to release information under this section  
 3 must require that the confidentiality provisions of this chapter be  
 4 maintained and that any subsequent use of the information conform  
 5 to the confidentiality provisions of this chapter.

6       SECTION 7. Subdivision (5), Section 108.002, Health and  
 7 Safety Code, is repealed.

8       SECTION 8. As soon as practicable after the effective date  
 9 of this Act and not later than December 1, 2011, the commissioner of  
 10 state health services and the commissioner of insurance shall  
 11 jointly appoint members to the Texas Bleeding Disorders Advisory  
 12 Council as required by Section 103A.002, Health and Safety Code, as  
 13 added by this Act.

14       SECTION 9. This Act takes effect immediately if it receives  
 15 a vote of two-thirds of all the members elected to each house, as  
 16 provided by Section 39, Article III, Texas Constitution. If this  
 17 Act does not receive the vote necessary for immediate effect, this  
 18 Act takes effect September 1, 2011.

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David Newkum  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 156 passed the Senate on March 17, 2011, by the following vote: Yeas 31, Nays 0; May 24, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Patsy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 156 passed the House, with amendments, on May 17, 2011, by the following vote: Yeas 112, Nays 34, one present not voting; May 26, 2011, House granted request of the Senate for appointment of Conference Committee; May 28, 2011, House adopted Conference Committee Report by the following vote: Yeas 97, Nays 45, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

17 JUN '11  
Date  
RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
1pm O'CLOCK  
JUN 17 2011  
Boyd R. Roberts  
Secretary of State